

109TH CONGRESS
1ST SESSION

H. R. 190

To restore the Federal electoral rights of the residents of the District of Columbia, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2005

Mr. ROHRABACHER introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committees on Government Reform and Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To restore the Federal electoral rights of the residents of the District of Columbia, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “District of Columbia
5 Voting Rights Restoration Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) There is no reason, either historically or by
9 virtue of law, why the people of the District of Co-

1 lumbia, the capital of the United States of America,
2 should not have full voting representation in the
3 Congress of the United States.

4 (2) Article I, section 8, clause 17 of the Con-
5 stitution of the United States, which authorized the
6 creation of the District of Columbia, provides only
7 that the Congress shall have “exclusive legislation in
8 all cases whatsoever” over that District.

9 (3) The same clause of the Constitution pro-
10 vides that Congress “shall exercise like authority
11 over” other Federal territories that have been pur-
12 chased from the States for Federal purposes. Resi-
13 dents of other Federal enclaves, though also denied
14 voting rights after becoming subject to exclusive
15 Federal jurisdiction, have had restored their right to
16 vote for and serve as elected Federal officials from
17 their respective States which ceded the Federal en-
18 claves to the United States.

19 (4) Congress has exercised its authority to reg-
20 ulate Federal elections under article I, section 4 of
21 the Constitution to set the legal requirements that
22 States must follow in establishing Congressional dis-
23 tricts. Congress has also exercised this authority to
24 require States to allow United States citizens who
25 are former residents, and their children who are

1 United States citizens, who are living overseas to
2 vote in Federal elections in the previous State of res-
3 idence, notwithstanding the fact that such former
4 residents and their children may have no intention
5 of returning or establishing residence in that State,
6 and notwithstanding the fact that such citizens are
7 not subject to the laws of that State, including tax
8 laws.

9 (5) The entire territory of the current District
10 of Columbia was ceded to the United States by the
11 State of Maryland, one of the original 13 States of
12 the United States. The portion of the original Dis-
13 trict of Columbia ceded to the United States by the
14 Commonwealth of Virginia was returned to the au-
15 thority of that state in 1846, and the people who
16 now reside in that area vote as citizens of the Com-
17 monwealth of Virginia.

18 (6) The Supreme Court of the United States
19 has found that the cession of legislative authority
20 over the territory that became the District of Colum-
21 bia by the States of Maryland and Virginia did not
22 remove that territory from the United States, and
23 that the people who live in that territory are entitled
24 to all the rights, guarantees, and immunities of the
25 Constitution that they formerly enjoyed as citizens

of those States. *O'Donoghue v. United States*, 289 U.S. 516 (1933); *Downes v. Bidwell*, 182 U.S. 244 (1901). Among those guarantees are the right to equal protection of the laws and the right to participate, equally with other Americans, in a Republican form of government.

(7) Since the people who lived in the territory that now makes up the District of Columbia once voted in Maryland as citizens of Maryland, and Congress by adoption of the Organic Act of 1801 severed the political connection between Maryland and the District of Columbia by statute, Congress has the power by statute to restore Maryland state citizenship rights, including Federal electoral rights, that it took away by enacting the Organic Act of 1801.

SEC. 3. RESTORATION OF RIGHT OF DISTRICT OF COLUMBIA RESIDENTS TO PARTICIPATE AS MARYLAND RESIDENTS IN CONGRESSIONAL ELECTIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, for purposes of representation in the House of Representatives and Senate, the right of the people of the District of Columbia to be eligible to participate in elections for the House of Representatives and Senate as

1 Maryland residents in accordance with the laws of the
 2 State of Maryland, is hereby restored.

3 (b) ELIGIBILITY TO HOLD CONGRESSIONAL OF-
 4 FICE.—Notwithstanding any other provision of law, for
 5 purposes of determining eligibility to serve as a Member
 6 of the House of Representatives or Senate, the right of
 7 the residents of the District of Columbia to be considered
 8 inhabitants of the State of Maryland is hereby restored.

9 (c) EFFECTIVE DATE.—This section shall apply with
 10 respect to elections for Federal office occurring during
 11 2006 and any succeeding year.

12 **SEC. 4. RESTORATION OF RIGHT OF DISTRICT OF COLUM-**
 13 **BIA RESIDENTS TO PARTICIPATE AS MARY-**
 14 **LAND RESIDENTS IN PRESIDENTIAL ELEC-**
 15 **TIONS.**

16 (a) IN GENERAL.—Notwithstanding any other provi-
 17 sion of law, the right of the people of the District of Co-
 18 lumbia to be eligible to participate in elections for electors
 19 of President and Vice President, and to serve as such elec-
 20 tors as Maryland residents in accordance with the laws
 21 of the State of Maryland, is hereby restored.

22 (b) ELIGIBILITY TO SERVE AS ELECTORS.—Notwith-
 23 standing any other provision of law, for purposes of deter-
 24 mining eligibility to serve as electors of President and Vice
 25 President, the right of the residents of the District of Co-

1 lumbia to be considered inhabitants of the State of Mary-
 2 land is hereby restored.

3 (c) TERMINATION OF APPOINTMENT OF SEPARATE
 4 ELECTORS BY DISTRICT OF COLUMBIA.—In accordance
 5 with the authority under sections 1 and 2 of the 23rd
 6 amendment to the Constitution and the authority under
 7 article I, section 8, to legislate for the District of Colum-
 8 bia, and notwithstanding any other provision of law, Con-
 9 gress directs that no electors of President and Vice Presi-
 10 dent shall be appointed by the District of Columbia and
 11 that no votes from such electors shall be cast or counted
 12 in the electoral vote for President and Vice President.

13 (d) CONFORMING AMENDMENT.—

14 (1) IN GENERAL.—Chapter 1 of title 3, United
 15 States Code, is amended by striking section 21.

16 (2) CLERICAL AMENDMENT.—The table of sec-
 17 tions for chapter 1 of title 3, United States Code,
 18 is amended by striking the item relating to section
 19 21.

20 **SEC. 5. COORDINATION OF ELECTION ADMINISTRATION.**

21 (a) APPLICATION OF MARYLAND ELECTION LAWS.—

22 (1) IN GENERAL.—Federal elections in the Dis-
 23 trict of Columbia shall be administered and carried
 24 out by the State of Maryland, in accordance with the
 25 applicable laws of the State of Maryland.

1 (2) TREATMENT OF DISTRICT AS UNIT OF
 2 LOCAL GOVERNMENT.—For purposes of the laws of
 3 the State of Maryland which apply to Federal elec-
 4 tions in the District of Columbia pursuant to para-
 5 graph (1), the District of Columbia shall be consid-
 6 ered to be a unit of local government within the
 7 State of Maryland with responsibility for the admin-
 8 istration of Federal elections.

9 (b) CONFORMING AMENDMENTS TO HELP AMERICA
 10 VOTE ACT OF 2002.—

11 (1) TREATMENT OF DISTRICT OF COLUMBIA AS
 12 PART OF MARYLAND.—Section 901 of the Help
 13 America Vote Act of 2002 (42 U.S.C. 15541) is
 14 amended—

15 (A) by striking “the District of Columbia”;

16 (B) by striking “In this Act” and inserting

17 “(a) IN GENERAL.—In this Act”; and

18 (C) by adding at the end the following new

19 subsection:

20 “(b) SPECIAL RULE FOR STATE OF MARYLAND AND

21 DISTRICT OF COLUMBIA.—For purposes of this Act, the

22 following shall apply:

23 “(1) The voting age population of the State of

24 Maryland shall be considered to include the voting

1 age population of the District of Columbia for pur-
 2 poses of sections 101(d)(4) and 252(b).

3 “(2) The District of Columbia shall be consid-
 4 ered a unit of local government or jurisdiction lo-
 5 cated within the State of Maryland.

6 “(3) An election for Federal office taking place
 7 in the District of Columbia shall be considered to
 8 take place in the State of Maryland.”.

9 (c) CONFORMING AMENDMENTS TO OTHER FEDERAL
 10 ELECTION LAWS.—

11 (1) UNIFORMED AND OVERSEAS CITIZENS AB-
 12 SENTEE VOTING ACT.—

13 (A) IN GENERAL.—Title I of the Uni-
 14 formed and Overseas Citizens Absentee Voting
 15 Act (42 U.S.C. 1973ff et seq.) is amended by
 16 adding at the end the following new section:

17 **“SEC. 108. SPECIAL RULE FOR STATE OF MARYLAND AND**
 18 **DISTRICT OF COLUMBIA.**

19 “For purposes of this title, the following shall apply:

20 “(1) An absent uniformed services voter or
 21 overseas voter who is a resident of the District of
 22 Columbia shall be considered to be a resident of the
 23 State of Maryland.

1 “(2) An election for Federal office taking place
 2 in the District of Columbia shall be considered to
 3 take place in the State of Maryland.

4 “(3) The State of Maryland, and the election
 5 officials of the State of Maryland, shall be respon-
 6 sible for carrying out the provisions of this title with
 7 respect to voters who are residents of the District of
 8 Columbia.”.

9 (B) CONFORMING AMENDMENT.—Section
 10 107(6) of the Uniformed and Overseas Citizens
 11 Absentee Voting Act (42 U.S.C. 1973ff–6) is
 12 amended by striking “the District of Colum-
 13 bia,”.

14 (2) NATIONAL VOTER REGISTRATION ACT OF
 15 1973.—

16 (A) IN GENERAL.—The National Voter
 17 Registration Act of 1973 (42 U.S.C. 1973gg et
 18 seq.) is amended—

19 (i) by redesignating section 13 as sec-
 20 tion 14; and

21 (ii) by adding at the end the following
 22 new section:

23 **“SEC. 12. SPECIAL RULE FOR STATE OF MARYLAND AND**
 24 **DISTRICT OF COLUMBIA.**

25 “For purposes of this Act, the following shall apply:

1 “(1) The District of Columbia shall be consid-
2 ered a registrar’s jurisdiction within the State of
3 Maryland.

4 “(2) An election for Federal office taking place
5 in the District of Columbia shall be considered to
6 take place in the State of Maryland.

7 “(3) The State of Maryland, and the election
8 officials of the State of Maryland, shall be respon-
9 sible for carrying out this Act with respect to the
10 District of Columbia, except that—

11 “(A) section 5 shall apply to motor vehicle
12 driver’s license applications and the motor vehi-
13 cle authority of the District of Columbia in the
14 same manner as that section applies to a State,
15 and the State of Maryland shall provide the
16 District of Columbia with such forms and other
17 materials as the District of Columbia may re-
18 quire to carry out that section; and

19 “(B) the District of Columbia shall des-
20 ignate voter registration agencies under section
21 7 in the same manner as a State, and the State
22 of Maryland shall provide the District of Co-
23 lumbia with such forms and other materials as
24 the District of Columbia may require to carry
25 out that section.”.

1 (B) CONFORMING AMENDMENT.—Section
 2 3(4) of such Act (42 U.S.C. gg–1(4)) is amend-
 3 ed by striking “and the District of Columbia”.

4 (3) VOTING ACCESSIBILITY FOR THE ELDERLY
 5 AND HANDICAPPED ACT.—

6 (A) IN GENERAL.—The Voting Accessi-
 7 bility for the Elderly and Handicapped Act (42
 8 U.S.C. 1973ee et seq.) is amended—

9 (i) by redesignating section 8 as sec-
 10 tion 9; and

11 (ii) by inserting after section 7 the
 12 following new section:

13 “SPECIAL RULE FOR STATE OF MARYLAND AND DISTRICT
 14 OF COLUMBIA

15 “SEC. 8. For purposes of this Act, the following shall
 16 apply:

17 “(1) The District of Columbia shall be consid-
 18 ered a political subdivision of the State of Maryland.

19 “(2) An election for Federal office taking place
 20 in the District of Columbia shall be considered to
 21 take place in the State of Maryland.

22 “(3) The State of Maryland shall be responsible
 23 for carrying out this Act with respect to the District
 24 of Columbia.”.

25 (B) CONFORMING AMENDMENT.—Section
 26 8(5) of such Act (42 U.S.C. 1973ee–6(5)) is

1 amended by striking “the District of Colum-
2 bia,”.

3 (d) CONFORMING AMENDMENT TO HOME RULE
4 ACT.—Section 752 of the District of Columbia Home Rule
5 Act (sec. 1–207.52, D.C. Official Code) is amended by
6 striking the period at the end and inserting the following:
7 “, except to the extent required under section 5 of the
8 District of Columbia Voting Rights Restoration Act of
9 2005.”.

10 (e) OTHER CONFORMING AMENDMENT TO DISTRICT
11 OF COLUMBIA ELECTION LAW.—The District of Columbia
12 Elections Code of 1955 is amended by adding at the end
13 the following new section:

14 **“SEC. 18. APPLICABILITY OF MARYLAND ELECTION LAW**
15 **FOR ADMINISTRATION OF FEDERAL ELEC-**
16 **TIONS.**

17 “Notwithstanding any other provision of this Code or
18 other law or regulation of the District of Columbia—

19 “(1) any election for Federal office in the Dis-
20 trict of Columbia shall be administered and carried
21 out by the State of Maryland, in accordance with the
22 applicable law of the State of Maryland; and

23 “(2) no provision of this Code shall apply with
24 respect to any election for Federal office to the ex-

1 tent that the provision is inconsistent with the appli-
2 cable law of the State of Maryland.”.

3 (f) **EFFECTIVE DATE.**—This section and the amend-
4 ments made by this section shall apply with respect to
5 elections for Federal office occurring during 2006 and any
6 succeeding year.

7 **SEC. 6. TRANSITION PROVISIONS FOR HOUSE OF REP-**
8 **RESENTATIVES.**

9 (a) **NUMBER AND APPORTIONMENT OF MARYLAND**
10 **MEMBERS.**—For purposes of determining the number and
11 apportionment of the members of the House of Represent-
12 atives from the State of Maryland for the One Hundred
13 Tenth Congress and each succeeding Congress, the popu-
14 lation of the District of Columbia shall be added to the
15 population of Maryland under the decennial census.

16 (b) **TEMPORARY INCREASE IN APPORTIONMENT.**—

17 (1) **IN GENERAL.**—Effective January 3, 2007,
18 and until the taking effect of the first reapportion-
19 ment occurring after the regular decennial census
20 conducted for 2010—

21 (A) the membership of the House of Rep-
22 resentatives shall be increased by 2;

23 (B) the State of Maryland, together with
24 the State identified by the Clerk of the House
25 of Representatives in the report submitted

1 under paragraph (2), shall each be entitled to
2 one additional Representative, in accordance
3 with the requirements of paragraph (4); and

4 (C) each such Representative shall be in
5 addition to the membership of the House of
6 Representatives as now prescribed by law.

7 (2) TRANSMITTAL OF REVISED APPORTION-
8 MENT INFORMATION BY PRESIDENT AND CLERK.—

9 (A) STATEMENT OF APPORTIONMENT BY
10 PRESIDENT.—Not later than 30 days after the
11 date of the enactment of this Act, the President
12 shall transmit to Congress a revised version of
13 the most recent statement of apportionment
14 submitted under section 22(a) of the Act enti-
15 tled “An Act to provide for the fifteenth and
16 subsequent decennial censuses and to provide
17 for apportionment of Representatives in Con-
18 gress”, approved June 28, 1929 (2 U.S.C.
19 2a(a)), to take into account the provisions of
20 this section.

21 (B) REPORT BY CLERK.—Not later than
22 15 calendar days after receiving the revised
23 version of the statement of apportionment
24 under subparagraph (A), the Clerk of the
25 House of Representatives, in accordance with

1 section 22(b) of such Act (2 U.S.C. 2a(b)),
2 shall send to the executive of the State (other
3 than the State of Maryland) entitled to one ad-
4 ditional Representative pursuant to this section
5 a certificate of the number of Representatives
6 to which such State is entitled under section 22
7 of such Act, and shall submit a report identi-
8 fying that State to the Speaker of the House of
9 Representatives.

10 (3) INCREASE NOT COUNTED AGAINST TOTAL
11 NUMBER OF MEMBERS.—The temporary increase in
12 the membership of the House of Representatives
13 provided under paragraph (1) shall not operate to ei-
14 ther increase or decrease the permanent membership
15 of the House of Representatives as prescribed in the
16 Act of August 8, 1911 (2 U.S.C. 2), nor shall such
17 temporary increase affect the basis of reapportion-
18 ment established by the Act of June 28, 1929, as
19 amended (2 U.S.C. 2a), for the Eighty Second Con-
20 gress and each Congress thereafter.

21 (4) COMPOSITION OF CONGRESSIONAL DIS-
22 TRICTS FOR AFFECTED STATE.—During the period
23 in which the temporary increase in the membership
24 of the House of Representatives under this sub-
25 section is in effect, the Congressional districts of the

1 State identified by the Clerk of the House of Rep-
2 resentatives in the report submitted under para-
3 graph (2) shall be those districts established under
4 a law enacted by the State during 2001 (without re-
5 gard to any amendments made to such law after
6 2001) which established Congressional districts for
7 the State but which did not take effect because the
8 number of districts provided under the law was
9 greater than the number of districts to which the
10 State was finally entitled after the regular decennial
11 census for 2000.

12 (c) PROHIBITING DIVISION OF DISTRICT OF COLUM-
13 BIA INTO SEPARATE CONGRESSIONAL DISTRICTS.—

14 (1) IN GENERAL.—Notwithstanding subsection
15 (a), in establishing Congressional districts after the
16 effective date of this section, the State of Maryland
17 shall ensure that the entire area of the District of
18 Columbia is included in the same Congressional dis-
19 trict (except as provided in paragraph (2)).

20 (2) SPECIAL RULE IF POPULATION OF DISTRICT
21 EQUALS OR EXCEEDS AVERAGE POPULATION OF
22 MARYLAND CONGRESSIONAL DISTRICTS.—If the pop-
23 ulation of the District of Columbia equals or exceeds
24 the average population of a Congressional district in
25 the State of Maryland under the decennial census

1 used for the apportionment of the Members of the
 2 House of Representatives from the State of Mary-
 3 land, the State of Maryland shall ensure that at
 4 least one Congressional district in the State consists
 5 exclusively of territory within the District of Colum-
 6 bia.

7 (3) SPECIAL RULE FOR INITIAL DISTRICT.—
 8 Until the State of Maryland establishes Congres-
 9 sional districts to take into account the enactment of
 10 this section, the Congressional district of the addi-
 11 tional Representative to which the State is entitled
 12 under this section shall consist exclusively of the
 13 area of the District of Columbia.

14 **SEC. 7. REPEAL OF OFFICE OF DISTRICT OF COLUMBIA**
 15 **DELEGATE.**

16 (a) IN GENERAL.—Sections 202 and 204 of the Dis-
 17 trict of Columbia Delegate Act (Public Law 91–405; sec-
 18 tions 1–401 and 1–402, D.C. Official Code) are repealed,
 19 and the provisions of law amended or repealed by such
 20 sections are restored or revived as if such sections had
 21 not been enacted.

22 (b) CONFORMING AMENDMENTS TO DISTRICT OF CO-
 23 LUMBIA ELECTIONS CODE OF 1955.—The District of Co-
 24 lumbia Elections Code of 1955 is amended—

1 (1) in section 1 (sec. 1–1001.01, D.C. Official
2 Code), by striking “the Delegate to the House of
3 Representatives”;

4 (2) in section 2 (sec. 1–1001.02, D.C. Official
5 Code)—

6 (A) by striking paragraph (6), and

7 (B) in paragraph (13), by striking “the
8 Delegate to Congress for the District of Colum-
9 bia”;

10 (3) in section 8 (sec. 1–1001.08, D.C. Official
11 Code)—

12 (A) by striking “Delegate” in the heading,
13 and

14 (B) by striking “Delegate,” each place it
15 appears in subsections (h)(1)(A), (i)(1), and
16 (j)(1);

17 (4) in section 10 (sec. 1–1001.10, D.C. Official
18 Code)—

19 (A) by striking subparagraph (A) of sub-
20 section (a)(3), and

21 (B) in subsection (d)—

22 (i) by striking “Delegate,” each place
23 it appears in paragraph (1), and

1 (ii) by striking paragraph (2) and re-
 2 designating paragraph (3) as paragraph
 3 (2);

4 (5) in section 15(b) (sec. 1–1001.15(b), D.C.
 5 Official Code), by striking “Delegate,”; and

6 (6) in section 17(a) (sec. 1–1001.17(a), D.C.
 7 Official Code), by striking “except the Delegate to
 8 the Congress from the District of Columbia”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply with respect to elections occurring
 11 during 2006 and any succeeding year.

12 **SEC. 8. REPEAL OF OFFICES OF STATEHOOD REPRESENTA-**
 13 **TIVE AND SENATOR.**

14 (a) IN GENERAL.—Section 4 of the District of Co-
 15 lumbia Statehood Constitutional Convention Initiative of
 16 1979 (sec. 1–123, D.C. Official Code) is amended by strik-
 17 ing subsections (d) through (h).

18 (b) CONFORMING AMENDMENTS.—

19 (1) STATEHOOD COMMISSION.—Section 6 of
 20 such Initiative (sec. 1–125, D.C. Official Code) is
 21 amended—

22 (A) in subsection (a)—

23 (i) by striking “27 voting members”
 24 and inserting “24 voting members”,

1 (ii) by adding “and” at the end of
 2 paragraph (4); and

3 (iii) by striking paragraphs (5) and
 4 (6) and redesignating paragraph (7) as
 5 paragraph (5); and

6 (B) in subsection (a–1)(1), by striking sub-
 7 paragraphs (F), (G), and (H).

8 (2) AUTHORIZATION OF APPROPRIATIONS.—
 9 Section 8 of such Initiative (sec. 1–127, D.C. Offi-
 10 cial Code) is hereby repealed.

11 (3) APPLICATION OF HONORARIA LIMITA-
 12 TIONS.—Section 4 of D.C. Law 8–135 (sec. 1–131,
 13 D.C. Official Code) is hereby repealed.

14 (4) APPLICATION OF CAMPAIGN FINANCE
 15 LAWS.—Section 3 of the Statehood Convention Pro-
 16 cedural Amendments Act of 1982 (sec. 1–135, D.C.
 17 Official Code) is hereby repealed.

18 (5) LIST OF ELECTED OFFICIALS.—Section
 19 2(13) of the District of Columbia Elections Code of
 20 1955 (sec. 1–1001.02(13), D.C. Official Code) is
 21 amended by striking “United States Senator and
 22 Representative,”.

23 **SEC. 9. NONSEVERABILITY OF CERTAIN PROVISIONS.**

24 If any provision of sections 3, 6(a), or 6(b) of this
 25 Act, or the application thereof to any person or cir-

1 cumstance, is held invalid, the remaining provisions of this
2 Act or any amendment made by this Act shall be treated
3 as invalid.

4 **SEC. 10. RULES OF CONSTRUCTION.**

5 Nothing in this Act may be construed—

6 (1) to permit residents of the District of Colum-
7 bia to vote in elections for State or local office in the
8 State of Maryland or to permit nonresidents of the
9 District of Columbia to vote in elections for local of-
10 fice in the District of Columbia;

11 (2) to affect the power of Congress under arti-
12 cle I, section 8, clause 17 of the Constitution to ex-
13 ercise exclusive legislative authority over the District
14 of Columbia; or

15 (3) to affect the powers of the Government of
16 the District of Columbia under the District of Co-
17 lumbia Home Rule Act (except as specifically pro-
18 vided in this Act).

○